

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE
OCT 25 A 11:24
CIVIL ACTION NO.

04-12232 PBS

ADRIAN McCRAY,

Plaintiff

v.

H&R BLOCK EASTERN ENTERPRISES,
INC. and LINDA MURPHY,

Defendants

NOTICE OF REMOVAL

RECEIPT # 59562
AMOUNT \$ 150.00
SUMMONS ISSUED N/A
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. M.P.
DATE 10/26/04

TO: Civil Clerk's Office
United States District Court for the
District of Massachusetts
John Joseph Moakley U.S. Courthouse
One Courthouse Way
Boston, Massachusetts 02210

Superior Court Clerk
Plymouth Superior Court
72 Belmont Street
Brockton, Massachusetts 02301

Paul A. Manoff, Esq.
Attorney for Plaintiff Adrian McCray
47 Winter Street, 4th Floor
Boston, Massachusetts 02108

MAGISTRATE JUDGE JGO

Defendants, H&R Block Eastern Enterprises, Inc. and Linda Murphy, by their
undersigned attorneys and pursuant to 28 U.S.C. § 1446, give notice that they hereby remove the
above-captioned case presently pending in the Superior Court Department of the Trial Court of
Plymouth County, Commonwealth of Massachusetts, which bears Civil Action Number 04-
01172A, to the United States District Court for the District of Massachusetts.

Removal is authorized by 28 U.S.C. § 1441 and is based upon the United States District Court's original jurisdiction of the case because it is a civil action where the Plaintiff raises a claim under federal law, specifically the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §§2601-54.

In further support of this Notice, the Defendants state:

A. Background

1. This case was commenced by the filing of a complaint in the Superior Court Department of the Trial Court for the Commonwealth of Massachusetts in and for the County of Plymouth on or about September 22, 2004. Certified copies of the pleadings and docket sheet in this action are attached to this Notice as Exhibit A.

2. Both defendants, H&R Block Eastern Enterprises, Inc. and Linda Murphy, were served with the Summons and Complaint on October 5, 2004. The time in which the Defendants are required to remove this action to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1446 has not expired.

3. Both defendants consent to the removal of this matter to the United States District Court for the District of Massachusetts.

B. The Lawsuit

4. The Plaintiff's Complaint arises out of the termination of his employment with the Defendant, H&R Block Eastern Enterprises, Inc. ("Block"). Defendant Linda Murphy is Block's Vice President and Managing Director (Division 50) and served as one of the Plaintiff's supervisors during the time he worked at Block.

5. The Plaintiff's Complaint asserts claims for race discrimination, retaliation and violations of the Family and Medical Leave Act, 29 U.S.C. §§ 2601-54, arising out of his employment with Block.

6. The Plaintiff's Complaint demands a jury trial.

C. Federal Question

7. This Notice is based upon the Plaintiff's assertion of a claim for relief under a federal statute, the FMLA, 29 U.S.C. §§ 2601-54, and the District Court's original jurisdiction over questions arising under federal law. See 28 U.S.C. §§ 1331 and 1441(a).

8. The Plaintiff alleges that during his employment at Block he sought medical leave pursuant to the FMLA and that Block terminated his employment for taking such leave, in violation of the FMLA. See Plaintiff's Complaint at ¶¶ 13-14.

9. The FMLA permits employees to bring actions to recover damages or equitable relief in any federal or state court of competent jurisdiction. See 29 U.S.C. § 2617(a)(2).

10. The Plaintiff's FMLA claims arise under federal law and, accordingly, removal is proper in this instance.

11. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal will be filed with the Clerk of the Superior Court for the County of Plymouth in the Commonwealth of Massachusetts, and a copy of this Notice of Removal will be served upon counsel for the Plaintiff.

H&R BLOCK EASTERN
ENTERPRISES, INC. and LINDA
MURPHY,.

By their attorneys,



Adrienne M. Markham (BBO#320740)

Deborah Hesford DosSantos

(BBO#641185)

GOULSTON & STORRS

400 Atlantic Avenue

Boston, MA 02110

(617) 482-1776

Dated: October ²⁵, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above
document was served upon the attorney of record
for each other party by mail (by hand) on Oct 25, 2004

